IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4887 of 2007()

CRIME NO.549/07 OF TIRUR POLICE STATION

: PETITIONER/ACCUSED NO.3

P.T.SAKEER,.S/O.LATHEEF,
PUTHUTHOTTIL, HARIS VILLA,
MANGAD, NIRAMARUTHUR,
TIRUR, MALAPPURAM DIST.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, TIRUR POLICE
STATION -THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,KOCHI-31

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4887 of 2007

Dated this the 14th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner is the 3rd accused. Altogether there are 4 accused persons. F.I.R is registered on the basis of a complaint received by the police from the Joint R.T.O of the Motor Vehicles Department. The crux of the allegations in the F.I statement is that the 1st accused had presented a forged registration certificate before the Joint R.T.O. Another person had also submitted an application in respect of the same vehicle. On a close scrutiny, it was found that the registration certificate submitted by the 1st accused was an outright forgery and that the real registration certificate was presented by the other applicant. Investigation was commenced. The 1st accused was traced. Thereafter accused 2 and 3 were also traced. Confession statement of Accused 1 & 2 clearly show that they together had gone to the 4th accused who had furnished to them a forged registration certificate which in turn was used as genuine by accused 1 to 3 ie. including the petitioner herein. They had raised a loan making use of the registration certificate. The booty was split between accused 1 to 3. Investigation is in progress. The petitioner has not been arrested so far. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He is only a vehicle broker. The petitioner had nothing to do with the contumacious transaction in which accused 1 and 4 were involved. By merely introducing the 1st accused to other vehicle brokers, the petitioner has not committed any offence at all. In these circumstances, the petitioner does not deserve to be inflicted with the trauma of unjustified arrest and detention. Anticipatory bail may be granted to the petitioner, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the indications presently available convincingly point to the culpability of the petitioner. The question is not whether with the available inputs a conclusion beyond reasonable doubt and conviction is possible or not. Fair, proper and effective investigation will be hampered if the petitioner is granted anticipatory bail. The petitioner deserves to be interrogated closely to ascertain the vital facts and details. At this stage the petitioner may not be permitted to arm himself with an order of anticipatory bail. An opportunity to interrogate the petitioner may not be denied to the investigators, submits the learned Public Prosecutor .

4. In the nature of the contentions raised, this Court insisted

that the case diary be placed before the Court for perusal. The case diary has been perused by me. Independent evidence about the complicity of the petitioner is not forthcoming still, I agree. However, I am satisfied that in the nature of the confession statement of the co-accused, interrogation of the petitioner does appear to me to be absolutely necessary. I do not find any features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must co-operate with the investigators and make himself available for interrogation, I am satisfied.

This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-